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SENATE BILL 532

**48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008**

INTRODUCED BY

James G. Taylor

AN ACT

RELATING TO COUNTY OR MUNICIPAL ZONING; PROVIDING A ZONING  
AUTHORITY WITH THE AUTHORITY TO APPROVE SPECIAL EXCEPTIONS  
DURING THE APPEALS PROCESS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 3-21-8 NMSA 1978 (being Laws 1965,  
Chapter 300, Section 14-20-6, as amended) is amended to read:

"3-21-8. APPEALS TO ZONING AUTHORITY--GROUNDS--STAY OF  
PROCEEDINGS.--

A. The zoning authority shall provide by resolution  
the procedure to be followed in considering appeals allowed by  
this section.

B. Any aggrieved person or any officer, department,  
board or bureau of the zoning authority affected by a decision  
of an administrative officer, commission or committee in the

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1 enforcement of Sections 3-21-1 through 3-21-14 NMSA 1978 or  
2 ordinance, resolution, rule or regulation adopted pursuant to  
3 these sections may appeal to the zoning authority. An appeal  
4 shall stay all proceedings in furtherance of the action  
5 appealed unless the officer, commission or committee from whom  
6 the appeal is taken certifies that by reason of facts stated in  
7 the certificate, a stay would cause imminent peril of life or  
8 property. Upon certification, the proceedings shall not be  
9 stayed except by order of district court after notice to the  
10 official, commission or committee from whom the appeal is taken  
11 and on due cause shown.

12 C. When an appeal alleges that there is error in  
13 any order, requirement, decision or determination by an  
14 administrative official, commission or committee in the  
15 enforcement of Sections 3-21-1 through 3-21-14 NMSA 1978 or any  
16 ordinance, resolution, rule or regulation adopted pursuant to  
17 these sections, the zoning authority by a majority vote of all  
18 its members may:

19 (1) authorize, in appropriate cases and  
20 subject to appropriate conditions and safeguards variances or  
21 special exceptions from the terms of the zoning ordinance or  
22 resolution:

23 (a) [~~which~~] that are not contrary  
24 to the public interest;

25 (b) where, owing to special conditions,

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1 a literal enforcement of the zoning ordinance will result in  
2 unnecessary hardship; and

3 (c) so that the spirit of the zoning  
4 ordinance is observed and substantial justice done; or

5 (2) in conformity with Sections 3-21-1 through  
6 3-21-14 NMSA 1978:

7 (a) reverse any order, requirement,  
8 decision or determination of an administrative official,  
9 commission or committee;

10 (b) decide in favor of the appellant; or

11 (c) make any change in any order,  
12 requirement, decision or determination of an administrative  
13 official, commission or committee."